

**MINUTES**  
**Texas Board of Health Meeting**  
**May 8, 2003**

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The May 8, 2003, meeting of the Texas Board of Health (Board) was called to order at 10:23 a.m., at the Texas Department of Health (department), 1100 West 49<sup>th</sup> Street, Room M-739, Austin, Texas. Mr. George H. McCleskey, Chair, presided. A quorum was present with members, Mary E. Ceverha, M. P. A., Raymond Hannigan, and Mario R. Anzaldúa, M.D., in attendance.

**Registered Guests**

Lillie Gilligan, Glaxo Smith Kline  
Erica Brumleve, Glaxo Smith Kline  
Kristine Lloyd  
Dayland Parsons  
Dr. Michael VacLav  
Steve DeCorte, ACT Now  
Daniel Garza, ACT Now  
William Griffin, ACT Now  
Jimmie Johnson  
Lisa Breda, Merck Vaccine Division  
Mary Ann Rosen, Statesman

Mr. McCleskey welcomed guests. Also in attendance at the meeting were Nick Curry, M.D., M.P.H., Acting Executive Deputy Commissioner, and other key staff members of TDH.

ON A MOTION MADE BY MS. CEVERHA AND SECONDED BY MR. HANNIGAN, THE MINUTES OF THE APRIL 3, 2003 TEXAS BOARD OF HEALTH MEETING WERE APPROVED.

Mr. McCleskey recognized May 6-12 as National Nurses' Week and thanked all the public health nurses at the department for their service to the State of Texas.

Mr. McCleskey presented a resolution in recognition of Mario R. Anzaldúa, M.D. for his service to the State of Texas as a Texas Board of Health member from February 1997 to present and as Chair from November 2001 through December 2002. (*Attachment I*)

Mr. McCleskey presented a Moment of Truth Award to Ms. Julie Rawlings, Deputy State Epidemiologist, for her facilitation and coordination of the health related response to contact with debris from the tragic loss of Shuttle Columbia which was lost over Texas skies on the morning of Saturday, February 1, 2003. (*Attachment II*)

Mr. McCleskey and Mr. Hannigan presented Moment of Truth Awards to the following people in the Bureau of Human Resources for the work performed in dedication to the department during the winter ice storm: Ms. Betty Jones, Mr. Joe Carrillo, Mr. Tim Carroll, Mr. Ted Fick, Mr. Pete Garcia, Mr. Tim Horn, Mr. Ken Peschke, Mr. Layton Saegert, Mr. Jack Shaw, Mr. James Bryant, Mr. J. R. Madril and Mr. Carl Williams. (*Attachment II*)

Mr. McCleskey presented a resolution in recognition of May 18-24, 2003 as Texas EMS week and May as Trauma Awareness Month. He recognized Ready Teddy, EMS Bearamedic, for teaching children about injury prevention and Mr. Matt Shapiro, Paramedic for Austin/Travis County EMS, and his partner, for recently saving the life of Mr. Harris Johnson when he suffered from a cardiac arrest. (*Attachment III*)

Mr. Mark Scott, Director, Internal Audit, reported on risk assessment and state audit activities. He stated his office is moving forward on the audit plan. (*Attachment IV*)

Ms. Elaine Powell, Director, Business Improvement Office, presented an update on the activities of the Business Improvement Office that included legislative developments regarding quarterly reporting, business improvement review of the immunization program, consolidation of HHSC agency functions and the development of a business improvement reporting process to be ready for implementation once the legislative session is over. A third quarter report regarding the status of the implementation of the Business Improvement Plan will be completed the end of May. (*Attachment V*)

Rick Danko, Dr. P.H., Director, Office of Strategic Health Planning, presented an update on the State Strategic Health Partnership. A symposium for the partnership will be held in Austin on September 24-25, 2003 when each of the twelve workgroups will present the findings and recommendations for the achievement of their respective goals. Mr. Mike Gilliam, Director, Center for Health Statistics, serves as Co-Chair of the Data Workgroup with Dr. Gail Bray, presented an outline of their activities. (*Attachment VI*)

Dennis M. Perrotta, Ph.D., CIC, Office of the State Epidemiologist, reported that guidance has been received from the U.S. Centers for Disease Control and Prevention (CDC) Public Health Preparedness for a grant to upgrade state and local public health to prepare for and respond to bioterrorism, outbreaks of infectious disease and other public health threats and emergencies. The grant is for FY 2003 funding of \$48,310,184 from CDC and \$33,338,368 from the U. S. Health and Human Services' Health Resources Administration (HRSA) to support hospital preparedness for possible bioterror or other mass casualty events. Two new aspects of the grants will be the application to build a chemistry laboratory capacity and smallpox activities. Dr. Perrotta stated for the record that as of May 2<sup>nd</sup>, Texas has immunized 4,055 people for smallpox of which 1,060 were public health workers at the local and state level, 2,813 work in hospitals or other health care facilities, and 182 are EMS, FBI, and other federal employees. (*Attachment VII*)

A discussion followed between Board members, Dr. Perrotta, Susan Penfield, M.D., Chief, Bureau of Communicable Disease Control, and Sharilyn K. Stanley, M.D., Associate Commissioner, Disease Control and Prevention, regarding Severe Acute Respiratory Syndrome (SARS) and West Nile Virus. Dr. Perrotta stated that Texas has reported a total of seven "suspected" cases of Severe Acute Respiratory Syndrome (SARS), as of May 2, 2003. Dr. Penfield and Dr. Stanley spoke regarding the screening for SARS and preparations the department is making to respond to a possible epidemic. Dr. Penfield reported that West Nile Virus is on the Louisiana/Texas border and although Texas has not had any positive cases, it is expected this summer and preparations are being made.

Ms. Michelle McComb, School Health Program Coordinator, requested approval of the appointment of six members to the School Health Advisory Committee resulting from resignations and term expirations of individuals. (*Attachment VIII*)

ON A MOTION MADE BY MS. CEVERHA AND SECONDED BY MR. HANNIGAN, THE BOARD APPROVED THE APPOINTMENT OF SIX MEMBERS AND ONE EX-OFFICIO MEMBER TO THE SCHOOL HEALTH ADVISORY COMMITTEE WITH TERMS TO EXPIRE MAY 31, 2009 AS FOLLOWS:

- RETTA J. KNOX, R.N., MEMBER REPRESENTING ORGANIZATIONS AND/OR AGENCIES INVOLVED WITH THE HEALTH OF SCHOOL-AGED CHILDREN
- CATHY HARRIS, R.N., B.S.N., REAPPOINTMENT, MEMBER THAT IS A REGISTERED NURSE OR PHYSICIAN ASSISTANT PROVIDING SCHOOL HEALTH SERVICES
- SUZANNE CLINE, CONSUMER MEMBER
- MICHELLE F. SMITH, REAPPOINTMENT, CONSUMER MEMBER
- STEVEN EBELL, M.ED., ED.D., MEMBER REPRESENTING ORGANIZATIONS AND/OR AGENCIES INVOLVED WITH THE HEALTH OF SCHOOL-AGED CHILDREN
- JANE TUSTIN, M.S.N., R.N., REAPPOINTMENT, MEMBER REPRESENTING ORGANIZATIONS AND/OR AGENCIES INVOLVED WITH THE HEALTH OF SCHOOL-AGED CHILDREN
- TOMMY FLEMING, M.E.D., PH.D., EX-OFFICIO MEMBER, REPRESENTING TEXAS EDUCATION AGENCY

Ms. Cecilia Berrios, Community Health Promotion Specialist, Office of Public Health Practice, requested the appointment of a higher education faculty member to serve on the Promotor(a) or Community Health Worker Training and Certification Advisory Committee. (*Attachment IX*)

ON A MOTION MADE BY MS. CEVERHA AND SECONDED BY DR. ANZALDUA, THE BOARD APPROVED THE APPOINTMENT OF DARRYL WILLIAMS, M.D., AS A HIGHER EDUCATION FACULTY MEMBER TO THE PROMOTOR(A) OR COMMUNITY HEALTH WORKER TRAINING AND CERTIFICATION ADVISORY COMMITTEE WITH A TERM TO EXPIRE DECEMBER 31, 2006.

Ms. Cecilia Berrios, Community Health Promotion Specialist, Office of Public Health Practice, requested approval of proposed rules concerning the regulation of training and certification of promotores(as) or community health workers. (*Attachment X*)

ON A MOTION MADE BY DR. ANZALDUA AND SECONDED BY MS. CEVERHA, THE BOARD APPROVED THE PROPOSED RULES CONCERNING THE REGULATION OF TRAINING AND CERTIFICATION OF PROMOTORES(AS) OR COMMUNITY HEALTH WORKERS FOR PUBLICATION IN THE *TEXAS REGISTER* FOR A 30-DAY COMMENT PERIOD.

Mr. C. David Richards, Deputy General Counsel, requested approval of the proposed repeal of rules concerning memorandums of understanding regarding the elderly between the department and other agencies in order to eliminate rules that are unnecessary because there is no statutory requirement. (*Attachments XI and XII*)

ON A MOTION MADE BY MR. HANNIGAN AND SECONDED BY DR. ANZALDUA, THE BOARD APPROVED THE PROPOSED RULES CONCERNING THE MEMORANDUMS OF UNDERSTANDING BETWEEN THE DEPARTMENT AND THE TEXAS DEPARTMENT OF PROTECTIVE AND REGULATORY SERVICES ON ELDERLY ABUSE AND THE TEXAS DEPARTMENT ON AGING, TEXAS DEPARTMENT OF HUMAN SERVICES AND TEXAS MENTAL HEALTH AND MENTAL RETARDATION FOR LONG-TERM CARE SERVICES FOR THE ELDERLY FOR PUBLICATION IN THE *TEXAS REGISTER* FOR A 30-DAY COMMENT PERIOD.

Ms. Jacquelyn McDonald, Director, Office of the Board of Health, requested approval of a proposed rule concerning the Asbestos Advisory Committee. The committee has been reviewed and evaluated and it was determined that it should continue in existence until September 1, 2007. (*Attachment XIII*)

ON A MOTION MADE BY MS. CEVERHA AND SECONDED BY DR. ANZALDUA, THE BOARD APPROVED A PROPOSED RULE CONCERNING THE ASBESTOS ADVISORY COMMITTEE FOR PUBLICATION IN THE *TEXAS REGISTER* FOR A 30-DAY COMMENT PERIOD.

Ms. Jacquelyn McDonald, Director, Office of the Board of Health, requested approval of a proposed rule concerning the Device Distributors and Manufacturers Advisory Committee. The committee has been reviewed and evaluated and it was determined that it should continue in existence until September 1, 2007. (*Attachment XIV*)

ON A MOTION MADE BY MS. CEVERHA AND SECONDED BY MR. HANNIGAN, THE BOARD APPROVED A PROPOSED RULE CONCERNING THE DEVICE DISTRIBUTORS AND MANUFACTURERS ADVISORY COMMITTEE FOR PUBLICATION IN THE *TEXAS REGISTER* FOR A 30-DAY COMMENT PERIOD.

Ms. Jacquelyn McDonald, Director, Office of the Board of Health, requested approval of the proposed repeal of a rule concerning the Prostate Cancer Advisory Committee. The committee has been reviewed and it is recommended that it be abolished. (*Attachment XV*)

ON A MOTION MADE BY MS. CEVERHA AND SECONDED BY DR. ANZALDUA, THE BOARD APPROVED THE PROPOSED REPEAL OF A RULE CONCERNING THE PROSTATE CANCER ADVISORY COMMITTEE FOR PUBLICATION IN THE *TEXAS REGISTER* FOR A 30-DAY COMMENT PERIOD.

Ms. Jacquelyn McDonald, Director, Office of the Board of Health, requested approval of the proposed repeal of a rule concerning the Wholesale Drug Distributors Advisory Committee. The committee has been reviewed and it is recommended it be abolished. (*Attachment XVI*)

ON A MOTION MADE BY MS. CEVERHA AND SECONDED BY DR. ANZALDUA, THE BOARD APPROVED THE PROPOSED REPEAL OF A RULE CONCERNING THE WHOLESALE DRUG DISTRIBUTORS ADVISORY COMMITTEE FOR PUBLICATION IN THE *TEXAS REGISTER* FOR A 30-DAY COMMENT PERIOD.

Ms. Jacquelyn McDonald, Director, Office of the Board of Health, requested approval of a final rule concerning the School Health Advisory Committee. The committee has been reviewed and evaluated and it was determined that it should continue in existence until June 1, 2007. (*Attachment XVII*)

ON A MOTION MADE BY MS. CEVERHA AND SECONDED BY MR. HANNIGAN, THE BOARD APPROVED AN ORDER ADOPTING A RULE CONCERNING THE SCHOOL HEALTH ADVISORY COMMITTEE TO BE EFFECTIVE 20 DAYS AFTER FILING WITH THE TEXAS REGISTER DIVISION, OFFICE OF THE SECRETARY OF STATE.

Susan Penfield, M.D., Chief, Bureau of Communicable Disease Control, requested approval of final rules regarding the privacy of health information for communicable disease reporting. This rule requires Severe Acute Respiratory Syndrome (SARS) as a reportable disease. (*Attachment XVIII*)

ON A MOTION MADE BY DR. ANZALDUA AND SECONDED BY MR. HANNIGAN, THE BOARD APPROVED AN ORDER ADOPTING RULES CONCERNING THE PRIVACY OF HEALTH INFORMATION FOR COMMUNICABLE DISEASE REPORTING TO BE EFFECTIVE 20 DAYS AFTER FILING WITH THE TEXAS REGISTER DIVISION, OFFICE OF THE SECRETARY OF STATE.

Dr. John Villanacci, Director, Environmental Epidemiology and Toxicology Division, requested approval of final rules concerning childhood lead reporting. (*Attachment XIX*)

ON A MOTION MADE BY DR. ANZALDUA AND SECONDED BY MR. HANNIGAN, THE BOARD APPROVED AN ORDER ADOPTING RULES CONCERNING THE REPORTING OF CHILDHOOD BLOOD LEAD LEVELS TO BE EFFECTIVE JUNE 1, 2003 AFTER FILING WITH THE TEXAS REGISTER DIVISION, OFFICE OF THE SECRETARY OF STATE.

No action was taken on the final rules concerning physician recruitment in health professional shortage areas.

Mr. McCleskey announced a recess at 11:47 a.m., on Thursday, May 8, 2003.

Mr. McCleskey reconvened the meeting at 12:08 p.m., on Thursday, May 8, 2003. Other Board members in attendance were Mr. Raymond Hannigan, Ms. Margo Scholin, Ms. Mary Ceverha and Dr. Mario Anzaldua.

Janet Lawson, M.D., Acting Chief, Bureau of HIV/STD, requested approval of proposed rules concerning the Texas HIV Medication Program. These rules benefit the public and the department by ensuring the program continues to operate within budget parameters thus ensuring the continuation of pharmaceutical assistance to low income clients living with HIV disease. (*Attachment XX*)

A MOTION WAS MADE BY DR. ANZALDUA AND SECONDED BY MS. SCHOLIN, TO APPROVE THE PROPOSED RULES CONCERNING THE TEXAS HIV MEDICATION PROGRAM FOR PUBLICATION IN THE *TEXAS REGISTER* FOR A 30-DAY COMMENT PERIOD.

Mr. McCleskey called for discussion and recognized persons to give public comment.

Mr. Steve DeCorte, ACT Now, thanked the Board for their decision on the previously proposed rules to wait until after the legislative session before making a decision about the Texas HIV Medication Program (THMP). He spoke against the EMAs giving ten percent of their dollars to the Texas HIV Medication Program because they would have to cut some programs that would hurt their clients. He stated there would not be a shortfall in THMP because the legislators will appropriate the needed money to run the program. He stated that consumers want to be a part of the rulemaking process.

Mr. Bill Griffin, ACT Now, requested the department hold off until June in making decisions about changes to the THMP rules and give the legislators a chance.

Mr. Daniel Garza, Regional Coordinator, ACT Now, stated his concerns that the requested changes to the THMP will take them back to square one. He has told his clients that the rules would not be changed and expressed concern about having to tell his clients about the rule changes.

Discussion followed among Board members, Dr. Lawson, Dr. Stanley and Dr. Sanchez regarding the rule changes as options that will be put in place only if the legislature does not fund the program with additional monies. The amount needed to continue to maintain the program at the current level is \$44 million in new monies. So far, the Senate has proposed \$19.6 million and the House has proposed \$27.6 million in new monies. Both of these amounts are considerably under what is needed to maintain current level of services. If delayed, this rule will not have time to go through the rule process and be effective by September 1, 2003. Dr. Sanchez commented that these rule changes should not adversely affect the department in working with the legislature.

ON A MOTION MADE BY MS. CEVERHA AND SECONDED BY MS. SCHOLIN, THE BOARD APPROVED AN AMENDMENT TO SECTION 98.115 (C ) (1) TO CHANGE THE ORDER OF THE PROPOSED COST CONTAINMENT MEASURES BY MOVING MEDICAL CRITERIA FROM (C ) TO (A).

Mr. McCleskey then called for a vote.

THE BOARD APPROVED THE PROPOSED RULES CONCERNING THE TEXAS HIV MEDICATION PROGRAM FOR PUBLICATION IN THE *TEXAS REGISTER* FOR A 30-DAY COMMENT PERIOD.

Ms. Ceverha thanked staff for working with the Board to assist in the understanding of the issues involving the Texas HIV Medication Program.

Mr. McCleskey announced a recess at 12:48 p.m., on Thursday, May 8, 2003.

Mr. McCleskey reconvened the meeting at 2:04 p.m., on Thursday, May 8, 2003. Other Board members in attendance were Mr. Raymond Hannigan, Ms. Margo Scholin, Ms. Mary Ceverha and Dr. Mario Anzaldua.

Ms. Annabelle Dillard, Project Safety Division, requested approval of proposed rules concerning community right-to-know requirements related to hazardous chemicals.  
(Attachment XXI)

ON A MOTION MADE BY MS. SCHOLIN AND SECONDED BY DR. ANZALDUA, THE BOARD APPROVED THE PROPOSED RULES CONCERNING THE COMMUNITY RIGHT-TO-KNOW REQUIREMENTS RELATED TO HAZARDOUS CHEMICALS FOR PUBLICATION IN THE *TEXAS REGISTER* FOR A 30-DAY COMMENT PERIOD.



Ms. Karen Tannert, RPh., Chief Pharmacist, Drugs and Medical Device Division, Bureau of Food and Drug Safety, requested approval of final rules concerning the donation of unused drugs to charitable medical clinics and foreign countries. (*Attachment XXII*)

ON A MOTION MADE BY MS. SCHOLIN AND SECONDED BY MR. HANNIGAN, THE BOARD APPROVED AN ORDER ADOPTING RULES CONCERNING THE DONATION OF UNUSED DRUGS TO CHARITABLE MEDICAL CLINICS AND FOREIGN COUNTRIES TO BE EFFECTIVE 20 DAYS AFTER FILING WITH THE TEXAS REGISTER DIVISION, OFFICE OF THE SECRETARY OF STATE.

Dr. Sanchez spoke regarding recent activities as Commissioner and presented the Commissioner's Report. Dr. Sanchez announced that this week is not only National Nurses' Week, but also Public Servant Week and acknowledged the nurses and public servants that work with TDH and for the State of Texas. Dr. Sanchez reported that he and staff have met with all legislative members of the conference committee or staff, except for Chairman Bivins, this week. The conference committee will meet next week regarding all of the Health and Human Services agencies' appropriations. (*Attachment XXIII*)

Mr. McCleskey commended staff for their work in arranging and preparation of meetings for presentations at the Capitol. He also thanked Dr. Sanchez for working so hard with the legislature for the department.

Ms. Machel Pharr, Chief Financial Officer, and Ms. Jayne Nussbaum, Director, Office of Governmental Relations presented a legislative update. Ms. Nussbaum gave an overview of legislative bills with handouts. Ms. Pharr presented information on appropriations. (*Attachments XXIV - XXX*)

There were no public comments.

Mr. McCleskey announced the next meeting of the Texas Board of Health will be held on Thursday, June 12, 2003, in Austin at 10:00 a.m.

The meeting was adjourned on Thursday, May 8, 2003, at 3:27 p.m.

APPROVED: June 12, 2003

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George H. McCleskey, Chair  
Texas Board of Health

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Date